

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

REY CABRAL,

Plaintiff,

No. CV05-826

ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATION

v.

UNITED STATES DEPARTMENT
OF VETERANS AFFAIRS,

Defendant.

MOSMAN, J.,

On February 24, 2006, Magistrate Judge Hubel issued Findings and Recommendation ("F&R") (docket #16) in the above-captioned case recommending that defendant's motion to dismiss for improper venue, or in the alternative to transfer for improper venue (#10) be granted. Plaintiff filed an "answer" (#17) to the F&R on March 13, 2006. Defendant did not file a response.

In conducting my review of the F&R, I apply the following standard. The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions

of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, the court is free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

Plaintiff's "answer" (#17) indicates agreement with Magistrate Judge Hubel's recommendation to transfer this case to the United States Court of Appeals for Veteran's Claims. Upon review of the F&R and plaintiff's answer to the same, I agree with Magistrate Judge Hubel's recommendation and ADOPT the F&R as my own opinion.

IT IS SO ORDERED.

DATED this 18th day of April, 2006.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court